



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable John M. Pritchett, Member
Board of Water Engineers
Austin, Texas

Dear Sir:

Opinion No. 0-6428
Re: Does Article 432, Texas Penal
Code, make it improper for the
Board of Water Engineers to
recommend nomination to the
Board of Directors of the Gusda-
lupa-Blanco Authority, a brother
of one of the members of the
State House of Representatives?

Your request for an opinion on the above has been
received by this office.

We quote from your letter as follows:

"Reference is made of Art. 432 of the Texas Penal
Code, which reads as follows:

"No officer of this State or any officer
of any district, county, city, precinct, school
district, or other municipal subdivision of this
State, or any officer or member of any State, dis-
trict, county, city, school district or other
municipal board, or judge of any court, created
by or under authority of any general or special
law of this State, or any member of the Legis-
lature, shall appoint, or vote for, or confirm
the appointment of any officer, position, clerk-
ship, employment or duty, of any person related
within the second degree by affinity or within
the third degree by consanguinity to the person
so appointing or so voting, or to any other mem-
ber of such board, the Legislature, or court of
which such person so appointing or voting may be
a member, when the salary, fees, or compensation
of such appointee is to be paid for, directly or
indirectly, out of or from public funds or fees
of office of any kind or character whatsoever."

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"The Board of Directors of the Guadalupe-Blanco River Authority are recommended by the Board of Water Engineers, nominated by the Governor, and approved by the Senate.

"Does Art. 432 of the Texas Penal Code make it improper for the Board of Water Engineers to recommend for nomination to the Board of Directors of the Guadalupe-Blanco Authority a brother of one of the members of the Texas House of Representatives?"

We assume that the Board of Water Engineers does not wish to recommend anyone to the Governor for appointment whose confirmation by the Senate is prohibited by Statute.

Article 432 of the Penal Code of Texas provides, in part, that no member of the Legislature, shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing ~~or~~ so voting, or to any other member of the Legislature (underlining ours) of which such person so appointing or voting may be a member. The State Senate and the House of Representatives constitute the Legislature of this State. The person whom you contemplate recommending for appointment to this position is related within the first degree to a member of the Legislature.

We, therefore, answer that a brother of a member of the House of Representatives may not be appointed to serve on the Board of Directors of the Guadalupe-Blanco Authority.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED MAR 20 1945

FIRST ASSISTANT
ATTORNEY GENERAL

BY

Fred Chandler
Fred Chandler
Assistant

FO:24

